1613 (2) (4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH

Single Bench

MISC. APPEAL NO. 68 OF 2006

(C)

MISCELLANEOUS APPEAL UNDER SECTION 173, MOTOR VEHICLES ACT, 1988

APPELLANT
NON-APPLICANT NO. 3

United India Insurance Company Limited, Divisional Office, Krishna Complex, Kachehari Chowk, Raipur, Distt. Raipur (Chhattisgarh)

Versus

RESPONDENTS

1. Satish S/o Asdeo, Tractor Driver, aged about 24 years,

2. Asdeo Prasad, S/o Bhagatram Naorange, aged a bout 60 years

(Both R/o Village - Murkuta, Tehsil & P.S. Navagarh, Distt. Durg (CG) **VEHICLE OWNER (Non-Applicants No. 1 & 2)**

3. Chandan Bai Wd/o Shiv Prasad, aged about 37 years, R/o Village - Chaklakunda, Tensil & P.S. Navagarh, Distt. Durg (CG) **(SECOND WIFE OF DECEASED) (Non Applicant No. 4)**

4. Dhanittar, S/o Bishambhar Satnami, aged about 75 years

5. Dukalabai, W/o Dhanittar, aged about 70 years

6. Doman, S/o Shiv Prasad, aged about 19 years (Handicapped)

7. Vinod S/o Shiv Prasad, aged about 12 years (Handicapped by both legs)

8. Indira Kumar S/o Shiv Prasad, aged about 9 years

9. Ishwar, S/o Shiv Prasad, aged about 7 years

10. Maharani D/o Shiv Prasad, aged about 6 years

(Sl. No. 7 to 10 Minor through elder brother Sl. No. 3 Doman S/o Shiv Prasad, aged about 19 years)

P.R. No. 2067/06 Presented by Shri Sanjay Shrivastava dated 14/7/06

(3) (5)

(Sl. No. 4 to 10 - R/o Village - Chakla Kunda, P.S. Tehsil - Navagarh, Distt. Durg (CG)
(Sl. No. 4 to 10 - Claimants)

CLAIM IN APPEAL FOR SETTING ASIDE AND/OR MODIFICATRION OF THE AWARD

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.No. 68/06 **सन् 200**

(22)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11.9.2006 Shri Sanjay S. Agrawal, learned counsel for the appellant. Heard on admission. This appeal has been preferred by the appellant against the impugned award dated 29/3/2006 passed by the learned Additional Motor Accident Claims Tribunal Bemetara in Claim Case No. 72/05 by which the appellant/Insurance Company has been held liable to satisfy the award amount. Learned counsel for the appellant submits that there is no dispute that at the time of accident the deceased was occupying the Tractor in breach of the policy condition and thus the learned Claims Tribunal ought to have exonerated the appellant Insurance Company. The tribunal has not exonerated the Insurance Company by recording a finding that the Insurance Company has failed to prove that at the time of accident the vehicle was being used on hire and not for agricultural purposes. So far as the liability of the Insurance Company for the death of the passenger who was occupying the Tractor at the time of accident is concerned the same has been considered and placing reliance to the judgment of the Supreme Court in the matter of **B.V. Nagaraju Vs. Oriental Insurance Co. Ltd. reported in (1996) 4 SCC 647** it has been held that on this ground also the Insurance Company could not be exonerated. Considering the facts and circumstances of the case and also the above mentioned judgment of the Supreme Court, the Tribunal has rightly	

XI-HC-78

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	rejected the objection of the appellant and fastened the liability on the Insurance Company. Thus the impugned award is strictly in accordance with the judgment of the Apex Court and therefore, it does not require any interference from this Court. Accordingly the appeal being devoid of substance is dismissed at the motion stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	

P.T.O.